

cc: DAE

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August 16, 2006

United States District Court
For the District of Hawaii
Office of the Clerk
300 Ala Moana Blvd.
Honolulu, HI 96850

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CLERK U.S. DISTRICT COURT

AUG 17 2006

DISTRICT OF HAWAII

RE: Nationwide Mutual Insurance Company v. David Kersh
No. 05-16714
D.C. No. CV-04-00726-DAE/KSC

Dear Sir/Madam:

Thank you for the copy of the Judgment I received from you August 14. That Judgment is filed-stamped August 7, 2006, and is a copy of the Judgment issued by the Ninth Circuit on November 28, 2005.

There is some subsequent history to this case that might not be reflected in your file.

After the above referenced Judgment, the Appellant moved for rehearing and the dismissal for lack of jurisdiction was set aside.

Thereafter the Ninth Circuit decided the case was appropriate for decision without oral argument or further briefing. On June 1, 2006 the Ninth Circuit issued a Memorandum decision affirming the decision of your court. Thus it seems to me that the final decision of the Ninth Circuit is an affirmance on the merits rather than dismissal of the appeal for lack of jurisdiction. A copy of the Ninth Circuit's Memorandum decision of June 1, 2006 and Order filed July 26, 2006 are enclosed for your reference, just in case you didn't have them.

Very truly yours,



JOHN H. PRICE

JHP/dm

Enclosures - 1. Memorandum filed June 1, 2006
2. Order filed July 26, 2006

SCANNED